

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

UNITED STATES OF AMERICA, :
: Case No.: 1:06-cr-32 (WLS)
v. :
KENYONDUS HUDSON, :
: Defendant. :
: _____

ORDER

Defendant Keyondus Hudson moves the Court for a reduction of his sentence based on the retroactive amendments to the Fair Sentencing Act promulgated in the wake of the Fair Sentencing Act of 2010. (Doc. 38.) Under 18 U.S.C. § 3582(c)(2), a court may reduce a sentence retroactively lowered by the United States Sentencing Commission, “if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.” § 3582(c)(2). Although Amendment 750 permits a Court to lower sentences based on the reduced crack cocaine offense levels in Section 2D1.1, the United States Sentencing Guidelines policy statement provides that “[i]n no event may the reduced term of imprisonment be less than the term of imprisonment the defendant has already served.” U.S.S.G. § 1B1.10(b)(2)(C).

In this case, the Court sentenced Hudson to thirty-seven months’ imprisonment on December 18, 2007. (Docs. 30, 32.) The Court imposed that sentence to run concurrently to a 212-month sentence in Case No. 1:05-cr-53 and a sentence imposed in Dougherty County, Georgia Superior Court. (Doc. 32.) Hudson’s concurrent sentence commenced at the latest on the date he entered custody following the imposition of his sentence. *Coloma v. Holder*, 445 F.3d 1282, 1284 (11th Cir. 2006). More than forty-six

months have passed since that date and the date he filed the instant motion to reduce sentence. (See Docket.) Accordingly, because the Court cannot reduce a term of imprisonment to less than the time already served, § 1B1.10(b)(2)(C), Hudson's motion to reduce sentence (Doc. 38) is **DENIED**.

Hudson's Motion to Appoint Counsel and motion to proceed *in forma pauperis* (Docs. 38, 39) are also **DENIED** as moot.

SO ORDERED, this 12th day of April 2013

/s/ W. Louis Sands

**THE HONORABLE W. LOUIS SANDS,
UNITED STATES DISTRICT COURT**